

**ASSEMBLY BILL**

**No. 1354**

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**Introduced by Assembly Member Dodd**

**(Coauthors: Assembly Members Bonilla, Bonta, Chávez, Eggman,  
Gonzalez, and Lopez)**

**(Coauthors: Senators Galgiani, Hancock, Leyva, Mitchell, and Wolk)**

February 27, 2015

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An act to amend Section 12990 of the Government Code, relating to discrimination.

LEGISLATIVE COUNSEL’S DIGEST

AB 1354, as introduced, Dodd. Discrimination: equal pay: state contracting.

Existing law subjects an employer who is, or wishes to become, a contractor with the state for public works, or for goods or services, to various nondiscrimination requirements. Existing law authorizes requiring an employer to submit a nondiscrimination program to the Department of Fair Employment and Housing for approval and certification, prior to becoming a contractor or subcontractor with the state, as well as requiring the provision of periodic reports of contractor or subcontractor compliance with that program.

This bill would enact the Equal Pay for Equal Work Act of 2015. The bill would require an employer with 100 or more employees, prior to becoming a contractor or subcontractor with the state, to submit an income equality program to the Department of Fair Employment and Housing for approval and certification and to submit periodic reports of its compliance with that program. The bill would require the income equality program to include the collection of summary data on the compensation paid to employees, including data sorted by gender and

race, and policies designed to ensure income equality and prevent unlawful discrimination. The bill would make a statement of legislative findings.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. This act shall be known, and may be cited, as the  
2 Equal Pay for Equal Work Act of 2015.

3 SEC. 2. (a) The Legislature finds and declares the following:

4 (1) According to data from the United States Census Bureau,  
5 full-time working women, on average, over the last decade, have  
6 continued to earn just 77 cents for every dollar a man earns. The  
7 wage gap is greater for women of color, with African American  
8 women being paid an average of 64 cents for every dollar paid to  
9 white, non-Hispanic men in 2013 and Latinas being paid just 56  
10 cents for every dollar paid to white, non-Hispanic men.

11 (2) This wage disparity amounted to a yearly average wage gap  
12 of \$10,876 in 2013 between full-time working men and full-time  
13 working women. In total, the disparity represents more than \$490  
14 billion in lost wages for working women every year.

15 (3) Disparities in pay for women have numerous negative  
16 impacts. This pay differential shortchanges women and their  
17 families by thousands of dollars a year and potentially hundreds  
18 of thousands of dollars over a lifetime. Nearly 4 in 10 mothers are  
19 primary breadwinners in their households, and nearly two-thirds  
20 are significant earners, making pay equity critical to the economic  
21 security of their families.

22 (4) Equal pay for equal work is a fundamental precept in our  
23 nation and in California. Federal law, including the federal Equal  
24 Pay Act of 1963 (Public Law 88-38), Title VII of the Civil Rights  
25 Act of 1964 (Public Law 88-352), and Executive Order 11246 of  
26 September 24, 1965, entitled Equal Employment Opportunity,  
27 specifically prohibits arbitrarily compensating men and women  
28 differently for the same work, as does California's Equal Pay Act.

29 (5) On August 6, 2014, the United States Department of Labor's  
30 Office of Federal Contract Compliance Programs issued a notice  
31 of proposed rulemaking to required covered federal contractors  
32 and subcontractors with more than 100 employees to submit an

1 annual equal pay report on employee compensation. In California,  
2 state contractors receiving public money are obligated to comply  
3 with equal pay laws and should provide the state with aggregate  
4 wage data to advance pay equity.

5 (b) It is the intent of the Legislature in enacting this act to  
6 promote pay equity and nondiscrimination in setting pay and  
7 making hiring or promotional decisions, and to obtain better data  
8 on income inequality to more wholly address the problem.

9 SEC. 3. Section 12990 of the Government Code is amended  
10 to read:

11 12990. (a) Any employer who is, or wishes to become, a  
12 contractor with the state for public works or for goods or services  
13 is subject to the provisions of this part relating to discrimination  
14 in employment and to the nondiscrimination requirements of this  
15 section and any rules and regulations that implement it.

16 (b) (1) Prior to becoming a contractor or subcontractor with  
17 the state, an employer may be required to submit a  
18 nondiscrimination program to the department for approval and  
19 certification and may be required to submit periodic reports of its  
20 compliance with that program.

21 (2) *Prior to becoming a contractor or subcontractor with the*  
22 *state, an employer with 100 or more employees shall submit an*  
23 *income equality program to the department for approval and*  
24 *certification and shall be required to submit periodic reports of*  
25 *its compliance with that program. The income equality program*  
26 *shall include the collection of summary data on the compensation*  
27 *paid to employees, including data sorted by gender and race, and*  
28 *include policies designed to ensure income equality and prevent*  
29 *unlawful discrimination.*

30 (c) Every state contract and subcontract for public works or for  
31 goods or services shall contain a nondiscrimination clause  
32 prohibiting discrimination on the bases enumerated in this part by  
33 contractors or subcontractors. The nondiscrimination clause shall  
34 contain a provision requiring contractors and subcontractors to  
35 give written notice of their obligations under that clause to labor  
36 organizations with which they have a collective bargaining or other  
37 agreement. These contractual provisions shall be fully and  
38 effectively enforced. This subdivision does not apply to a credit  
39 card purchase of goods of two thousand five hundred dollars  
40 (\$2,500) or less. The total amount of exemption authorized herein

1 shall not exceed seven thousand five hundred dollars (\$7,500) per  
2 year for each company from which a state agency is purchasing  
3 goods by credit card. It shall be the responsibility of each state  
4 agency to monitor the use of this exemption and adhere to these  
5 restrictions on these purchases.

6 (d) The department shall periodically develop rules and  
7 regulations for the application and implementation of this section,  
8 and submit them to the council for consideration and adoption in  
9 accordance with the provisions of Chapter 3.5 (commencing with  
10 Section 11340) of Part 1. Those rules and regulations shall describe  
11 and include, but not be limited to, all of the following:

12 (1) Procedures for the investigation, approval, certification,  
13 decertification, monitoring, and enforcement of nondiscrimination  
14 programs.

15 (2) The size of contracts or subcontracts below which any  
16 particular provision of this section shall not apply.

17 (3) The circumstances, if any, under which a contractor or  
18 subcontractor is not subject to this section.

19 (4) Criteria for determining the appropriate plant, region,  
20 division, or other unit of a contractor's or subcontractor's operation  
21 for which a nondiscrimination program is required.

22 (5) Procedures for coordinating the nondiscrimination  
23 requirements of this section and its implementing rules and  
24 regulations with the California Plan for Equal Opportunity in  
25 Apprenticeship, with the provisions and implementing regulations  
26 of Article 9.5 (commencing with Section 11135) of Chapter 1 of  
27 Part 1, and with comparable federal laws and regulations  
28 concerning nondiscrimination, equal employment opportunity,  
29 and affirmative action by those who contract with the United States.

30 (6) The basic principles and standards to guide the department  
31 in administering and implementing this section.

32 (e) Where a contractor or subcontractor is required to prepare  
33 an affirmative action, equal employment, or nondiscrimination  
34 program subject to review and approval by a federal compliance  
35 agency, that program may be filed with the department, instead of  
36 any nondiscrimination program regularly required by this section  
37 or its implementing rules and regulations. Such a program shall  
38 constitute a prima facie demonstration of compliance with this  
39 section. Where the department or a federal compliance agency has  
40 required the preparation of an affirmative action, equal

1 employment, or nondiscrimination program subject to review and  
2 approval by the department or a federal compliance agency,  
3 evidence of such a program shall also constitute prima facie  
4 compliance with an ordinance or regulation of any city, city and  
5 county, or county that requires an employer to submit such a  
6 program to a local awarding agency for its approval prior to  
7 becoming a contractor or subcontractor with that agency.

8 (f) Where the department determines and certifies that the  
9 provisions of this section or its implementing rules and regulations  
10 are violated or determines a contractor or subcontractor is engaging  
11 in practices made unlawful under this part, the department may  
12 recommend appropriate sanctions to the awarding agency. Any  
13 such recommendation shall take into account the severity of the  
14 violation or violations and any other penalties, sanctions, or  
15 remedies previously imposed.

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